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In re Application of :  
Kendall A. Smith : DECISION GRANTING PETITION  
Application No. 09/708,635 :  
Filed: 22 September, 2000 :  
Attorney Docket No. 2650/1F918-U :  
:

This is a decision on the petition filed on 29 January, 2001, requesting that the above-identified application be accorded a filing date of 22 September, 2000.

Petitioner asserts that the application was originally filed on 22 September, 2000, but was lost after receipt by the U.S. Patent and Trademark Office. In support of the petition, petitioner submitted (1) a postcard receipt for the instant application date-stamped 22 September, 2000, by the Office of Initial Patent Examination (OIPE) and containing the invention title, inventor's name, docket number, and attorney's initials, and which itemizes the filing of, *inter alia*, 53 pages of specification, 2 pages of claims, 1 page of abstract, and 5 sheets of drawings.

Based on the evidence present in the file, it is concluded that the present application was filed on 22 September, 2000, but was subsequently misplaced in the Office.

Accordingly, the petition is granted. As this petition was necessitated by USPTO error, the \$130.00 petition fee submitted with the present petition is unnecessary. Petitioner may request a refund by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The application is being forwarded to Office of Initial Patent Examination (OIPE) for correction of the filing date to 22 September, 2000.

Telephone inquiries specific to this matter should be directed to  
Petitions Attorney Douglas I. Wood at (703) 308-6918.

*Beverly M. Flanagan*  
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